March 22, 2002

Mr. Sam McClerren **Via E-Mail**
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701

Dear Mr. McClerren:

Citizens Telecommunications Company of Illinois (CTC-Illinois) is providing this letter to address Staff's Second Draft of the proposed Part 731 rules. I have attached a redlined draft of the proposed Part 731 rules reflecting CTC-Illinois's recommended additions and changes.

1. Definitions

CTC-Illinois has proposed revising the definition of "Firm Order Confirmation" to reflect the discussion at the last workshop that the FOC is generally used in the industry to notify a carrier that their order has been received and a due date has been assigned. CTC-Illinois has proposed the following definition:

> **Firm Order Confirmation" or "FOC" means the document or electronic record by which a Provisioning Carrier notifies a Requesting Carrier that the service order has been received and a due date has been assigned.**

Citizens has also eliminated the definition of "Local Loop" since it is duplicative of the definition for "Unbundled Local Loop" and revised the definition of "Unbundled Local Loop" as follows:

> **"Unbundled Local Loop" means the physical connection from the end user's premise to the carrier's point of presence, excluding switching or ports, provided by one carrier to another carrier. For purposes of this Code Part 731, Unbundled Local Loop is limited to loops used to provide "basic local exchange services" as defined in 220 ILCS 5/13-712(b).**

Limiting the application of the Part 731 rules to Unbundled Local Loops used for the provisioning "basic local exchange service" is consistent with the General Assembly's directive that the Commission establish service quality standards associated with "basic local exchange service" in Section 13-712(g).

2. Scope of Wholesale Services Covered In Part 731 Rules

In Section 731.600 Staff has proposed that Level 2 carriers be subject to wholesale service quality standard for Unbundled Local Loops; Interconnection Trunks; Resold Local Services; Collocation; Loss Notification and Customer Service Records. Although not specified in Section 731.600 Staff has also proposed that Level 2 carriers be subject to wholesale service quality measures for de-conditioning loops and provisioning loops used for line sharing/splitting. Given the limited level of competitive activity currently existing for Level 2 carriers, this list of wholesale services covered by Part 731 is too broad and extensive for purposes of setting rules of general applicability.

CTC-Illinois has been operating in Illinois since November 2000 and in the last 15 months, CTC-Illinois has not had any requests for collocation or line sharing/splitting in its central offices. To my knowledge, there have not been any problems, delays or other issues associated with collocation, loss notification, customer service records or line sharing/splitting (including de-conditioning loops) associated with wholesale service provisioning or repair. The suggestion that some problems may develop in the future for Level 2 Carriers is purely speculative and places the Commission in the position of arbitrarily establishing standards as a solution before a problem has even been identified. Consequently, CTC-Illinois has proposed limiting the wholesale service measures and remedies to Unbundled Local Loops, Interconnection Trunks and Resold Local Services.

Eliminating collocation and line sharing/splitting from the Part 731 will not result in substandard wholesale service performance. The FCC has released very specific standards and requirements with respect to collocation and line sharing/splitting. These standards are in place and currently provide a “safety net” for CLECs entering into a Level 2 Carrier’s territory in terms of ensuring that the Level 2 Carrier performs in a reasonable manner. As an alternative protection to ensure wholesale standards can quickly be put in place for collocation, line sharing/splitting and other services, CTC-Illinois has also proposed adding the following language to the Part 731 Rule that would allow a Requesting Carrier to petition the Commission to expand the wholesale services measures applicable to a specific Provisioning Carrier:

> **A Requesting Carrier may petition the Commission to establish wholesale service quality standards and remedies for Wholesale Services not included in the preceding Section “a)” for a specific Level 2 Provisioning Carrier if the Requesting Carrier has experienced provisioning or repair delays with a specific Level 2 Provisioning Carrier for other Wholesale Services. The Requesting Carrier’s petition will contain a verified statement identifying the provisioning or repair delays it has encountered for other Wholesale Services not identified in Section “a)”. For each petition filed with the Commission pursuant this Section, unless otherwise ordered by the Administrative Law Judge or the Commission, the Commission shall initiate a proceeding and schedule a prehearing conference (see 83 Ill. Adm. Code 200.300) to occur no more than 21 days after the filing date. The**

purpose of the proceeding shall be to review the specified Level 2 Provisioning Carrier's service performance with respect to other identified Wholesale Services and the appropriateness of establishing wholesale service quality standards for those standards, and, if appropriate to adopt a wholesale service quality standards for the Provisioning Carrier identified in the petition. The Requesting Carrier filing and the Provisioning Carrier identified in the Petition shall be parties to the proceeding. Other parties may intervene, pursuant to the Commission's Rules of Practice. The proceeding will be scheduled, unless otherwise ordered by the Administrative Law Judge or the Commission, so that a Proposed Order is presented to the Commission by the Administrative Law Judge no later than 3 months after the date of the Requesting Carrier's petition.

With this provision, a Requesting Carrier that has experienced a bona fide service problem with a wholesale service actually ordered and provisioned could petition the Commission to have wholesale measures or standards imposed on a Provisioning Carrier that has performed inadequately. In other words, the Commission could address a "real" as opposed to a hypothetical problem a Requesting Carrier has experienced and create appropriate measures or standards based on the needs of the Requesting Carrier and the capabilities of the Provisioning Carrier. The proposed language would enable the Requesting Carrier to get its service issues resolved expeditiously and new wholesale performance standards could be in place within 3 months after the petition is filed by the Requesting Carrier.

3. Wholesale Service Thresholds

CTC- Illinois does not have sophisticated operational support systems (OSS) and must process most orders and repairs manually. In addition, the limited number of access lines served by CTC-Illinois and the even fewer number of resold lines/loops provided to CLECs makes it impractical to dedicate human resources that can "stand ready" to exclusively provision or repair wholesale services. Given the limited volume of wholesale service activity to date in the Level 2 Carrier's territories, CTC-Illinois believes it makes sense to establish wholesale service thresholds that must be met before the wholesale measures and remedies in the proposed Part 731 Rules apply. In the following language, CiTC-Illinois has proposed that the remedy and reporting requirements in Section 731.610 and 731.620 would not apply if loop, trunk and resale thresholds are not met:

a) <u>Exemption from Remedies and Reporting Requirements</u>. Level 2 carriers are exempt from remedies contained in Section 731.610 and the reporting requirements of Section 731.620, on a service by service basis, if the volume of such Wholesale Services on an aggregate basis for all Wholesale Customers for any quarter is not equal to or greater than the threshold levels indicated below.

1) Unbundled Local Loops, (threshold, 100 orders per quarter);
2) Interconnection Trunks, (threshold, 25 orders per quarter); and
3) Resold Local Services, (threshold, 100 orders per quarter).

With respect to the proposed exemption, the Carrier seeking the exemption would self-certify that the wholesale activity levels had not been achieved during the preceding quarter (within 30 days after the end of the calendar quarter). If the Wholesale Carrier's activity for certain wholesale services exceeded the threshold it would be subject to the standards in Section 731.610 and would be required to pay the remedies in 731.620 for those wholesale services.

4. Measures and Standards

As was discussed at the last workshop, it does not seem appropriate to establish standards that Level 2 Carriers must achieve 100% of the time. Notwithstanding their best efforts, carriers will always fail to provision or repair *some* lines within the specified standards. For purposes of the Part 731 rulemaking, the fact that CLECs will be reimbursed for the payments/credits they make to their end-user customer's undermines the argument that a CLEC should receive a credit 100% of the time for every single miss of the wholesale service standards included in the Part 731 rules. Moreover, my understanding is that neither of the existing Ameritech or Verizon wholesale service plans are based on 100% satisfaction of wholesale service quality measures. Consequently, it would not make sense to impose a 100% achievement standard on Level 2 Carriers when the larger Level 1 Carriers that have significant wholesale activity (and resources dedicated to wholesale activity) are not held to a 100% compliance standard.

Similar to the service quality standards contained in the proposed Part 730 rules, CTC-Illinois has proposed a 90% standard for provisioning and a 95% standard for repairs for unbundled local loops, interconnection trunks and resold local services. The following language is included in Section 731.605(a)-(d):

a) Firm Order Confirmations - Level 2 Carrier shall provide FOCs or reject notices for Wholesale Services within the following timeframes, as measured from the time of receipt of an accurate and complete service request to the return of a FOC or reject notice:

1) Unbundled Local Loops - 90% by the end of the next business day
2) Interconnection Trunks - 90% within 10 business days
3) Resold Local Services - 90% by the end of the next business day

.

b) Provisioning - Level 2 Carriers shall provision wholesale services within the following timeframes , as measured from the time of receipt of a complete and accurate service request to completion of the requested service:

1) Unbundled Local Loops - 90% within 5 business days
2) Interconnection Trunks - 90% within 30 business days
3) Resold Local Services - 90% within 5 business days

- **The provisioning intervals, above, will not apply when a loop must be conditioned to remove bridge taps and load coils.**

c) **Maintenance and Repair - Level 2 Carriers shall clear Wholesale Out of Service trouble reports within the following intervals, as measured from the time of receipt of an accurate and complete trouble report to the time the trouble report is cleared:**

1) **Unbundled Local Loops - 95% within 24 hours**
2) **Interconnection Trunks - 95% within 8 hours**
3) **Resold Local Services - 95% within 24 hours**

d) **The measures in sections a), b) and c) above shall be evaluated based on the total wholesale activity for the Level 2 Carrier during the calendar quarter.**

CTC-Illinois has proposed measuring compliance with these standards on a quarterly basis to be consistent with the quarterly thresholds identified in 731.600 and to avoid unusual monthly performance variations associated with the low level of wholesale activity for Level 2 Carriers. If a wholesale carrier achieved these levels of performance for provisioning and/or repair during a calendar quarter, the carrier would not be subject to the remedies/credits in Section 731.610.

5. Inclusion of Two Exemptions Based on End-User Negligence or Equipment

The proposed wholesale service quality measures and remedies for Level 2 Carriers should not apply in circumstances where the delay in provisioning or repair are the result of a negligent or willful act on the part of the end-user retail customer or the result of a malfunction of equipment owned or operated by the end-user retail customer. These "end-user" customer-related exemptions exist in the existing Part 732.30(e) and proposed Part 730 rules and are not considered for purposes of a retail carrier providing customer credits or satisfying the performance standards in Part 730. For example, under Part 732, if a end-user retail customer negligently or willfully cuts their telephone line while planting a tree in their yard, the carrier providing service to the end-user customer would not be subject to the 24 hour OSS service restoration standards in the Part 732 and Part 730 rules. This exemption should "flow through" to the wholesale carrier providing the facilities used to deliver service to that customer. It would not be equitable to require the wholesale carrier to be subject to credits/penalties for failing to install or repair wholesale service caused by an end-user's negligence or equipment. To address this concern, CTC-Illinois has proposed the following language in Part 731.605(d):

The standards set forth in this section do not apply if . . . the violation of the service quality standard occurs:

1) as a result of a negligent or willful act on the part of the wholesale customer or the end-user retail customer;
2) as a result of a malfunction of equipment owned or operated by the wholesale customer or the end-user retail customer;

6. Remedies

During the last workshop Commission Staff suggested that they view the Part 731 rules to be comparable to the Part 732 rules in terms of customer remedies. Based on this, CTC-Illinois has reviewed the retail service provisioning and repair remedies contained in Part 732.30 and has proposed similar remedies in part 731.610. With respect to provisioning, CTC-Illinois has used a percentage of the non-recurring installation charge as the basis for the wholesale credit. Like Part 732.30(b), 50% of the installation charge would be waived if the loop or resold service was not provisioned within the standard 5 business day provisioning interval. Similarly, like Part 732.30(a), 100% of the installation charge would be waived if the service is not installed within 10 business days. After 10 business days, 10% of the monthly recurring charge would be credited per day.

With respect to maintenance and repair, CTC-Illinois has used a percentage of the recurring charge as the basis for the wholesale credit. Like Part 732.30(a), a sliding scale percentage of the monthly recurring charge would be credited if a loop or resold line was OSS 24 hours, 48 hours, 72 hours, 96 hours or more than 120 hours. A similar sliding scale is proposed for Interconnection Trunks.

With respect to FOCs, CTC-Illinois has proposed a flat penalty/credit for missing the FOC standard. As was discussed at the last workshop, the FOC timeline will run concurrent with the provisioning timeline. Accordingly, providing a FOC for loops and resold lines will be meaningless after the 5 day standard provisioning interval. Under the remedies proposed by Staff, if a Carrier failed to provide a FOC but still provisioned the loop or resold line within the standard 5 day interval, the Carrier could still be subject to per day penalties associated with the FOC after the service was provisioned. In other words, a situation could arise in which the service was provisioned on time but the FOC fell through the cracks and the per day penalties for FOC would run indefinitely. This could subject the Level 2 Carrier to financially significant FOC credits even though the loop or resold line was provisioned on time within 5 business days. This is especially true for Level 2 where the order will be sent manually via fax and not via a sophisticated OSS system that will immediately acknowledge receipt of the order. A CLEC that was concerned about an order and had not received a FOC within a day or two after the FOC required due date should be expected to contact the Provisioning Carrier to confirm that the order was received and why the FOC is delayed. Consequently, there is no basis for setting an ongoing per day penalty for FOC misses for Level 2 Carriers.

CTC-Illinois has proposed the following language in Part 731.610:

a) If a Level 2 Carrier fails to comply with Section 731.605 of this Part and is not entitled to an exemption for a Wholesale Service under Section 731.600 b) of this Part, it shall provide credits to the purchasing Carrier in the following amounts:

1) For Firm Order Confirmation and Reject Notice Failures, Level 2 Carriers provide credits as follows:

A) Unbundled Local Loops - $ 10 per loop order
B) Interconnection Trunks - $50 per trunk order day
C) Resold Local Services - $ 10 per service order

2) For Provisioning Failures - Level 2 Carriers shall provide credits as follows:

A) Unbundled Local Loops – 50% of nonrecurring installation charge after 5 business days; 100% of nonrecurring installation charge after 10 business days; and 10% of monthly recurring charge per loop, per business day after 10 business days
B) Interconnection Trunks - 50% of the nonrecurring installation charge after 30 business days; 100% of the nonrecurring installation charge after 60 business days; and 10% of monthly recurring charge per trunk, per day after 60 business days
C) Resold Local Services - 50% of nonrecurring installation charge after 5 business days; 100% of nonrecurring installation charge after 10 business days; and 10% of monthly recurring charge per loop, per business day after 10 business days

3) For Maintenance and Repair Failures - Level 2 Carriers shall provide credits as follows:

A) Unbundled Local Loops - 10% of monthly recurring charge if OSS between 24 hours and 48 hours; 33% of monthly recurring charge if OSS between 48 hours and 72 hours; 66% of monthly recurring charge if OSS between 72 and 96 hours; 100% of monthly recurring charge if OSS between 96 hours and 120 hours; $ 10 per loop, per day after 120 hours.
B) Interconnection Trunks - 10% of monthly recurring charge if OSS between 8 hours and 24 hours; 33% of monthly recurring charge if OSS between 24 hours and 48 hours; 66% of monthly recurring charge if OSS between 48 and 72 hours; 100% of monthly recurring charge if OSS between 72 hours and 96 hours; $ 50 per trunk, per day after 96 hours.
C) Resold Local Services - 10% of monthly recurring charge if OSS between 24 hours and 48 hours; 33% of monthly recurring charge if OSS between 48 hours and 72 hours; 66% of monthly recurring charge if OSS between 72 and 96 hours; 100% of monthly recurring charge if OSS between 96 hours and 120 hours; $ 10 per resold local service, per day after 120 hours.

7. Waiver

Given the limited and varying levels of competitive activity in Level 2 Carrier exchanges, it is appropriate to include a specific waiver provision in the Part 731 rules for Level 2 Carriers. With the following proposed waiver language a Carrier could go to the Commission and seek to be relieved of the Subpart F requirements:

> **A Level 2 carrier may seek a waiver of any of the requirements contained in Subpart F: Obligations of Level 2 Carriers. The Commission, on application of a Level 2 Carrier or on its own motion, may grant a temporary or permanent waiver from this Part, or any subsections contained in this Part, in individual cases where the Commission finds that the provision from which the waiver is granted is not statutorily mandated; and the rule from which the waiver is granted would, as applied to the particular case, be unreasonable or unnecessarily burdensome.**

8. Conditioning of Loops

Staff has proposed an 8-day standard for conditioning loops when a digitally capable loop contains bridged taps or load coils and additional work activities associated with conditioning the loop must be performed. This 8-day standard for conditioning loops is unreasonable and unachievable in the rural communities served by CTC-Illinois. To complete conditioning, a technician must go to each load coil location in the field, open the splice case associated with that load coil, disconnect the load coil pairs from the pair to be conditioned and splice the ends of each conductor and the pair back together. The technician then must close the splice case. A technician must go to each splice location in the field from which bridged tap originates. The technician must open the splice case and remove all pairs bridged on to the pair being conditioned. After ensuring the continuity of the pair being conditioned, the technician closes the splice case. This process can be further complicated if the technician must go into a manhole, remove a load coil or bridged tap serving multiple lines or deal with aerial facilities. CTC-Illinois intends to have a technical representative available at the April 11th workshop to explain the complexities and time requirements associated with loop conditioning and to further explain why it is unreasonable to set a loop conditioning interval in rural exchanges.

9. Proposed FOC Standards and Loop Provisioning Standards

With respect to FOCs for loops and resold services, CTC-Illinois has proposed an “end of the next business day” standard for receiving an order, reviewing it and preparing and returning FOCs. For CTC-Illinois, most of this activity will occur manually, including the receipt and transmission of documents by facsimile. CTC-Illinois will endeavor to fax the FOC back to the wholesale customer by end of the next business day. Given the use of manual systems and facsimile machines for placing orders, it is not unreasonable for a CLEC placing an order on Tuesday to wait until Wednesday to receive a FOC.

With respect to Local Unbundled Loops, the standard loop provisioning time frame for Level 2 Carriers should be 10 business days before a credit/penalty would be assessed. Given the low volume of loop activity it has experienced in the state, CTC-Illinois’ provisioning group is very concerned regarding its ability to provision unbundled loops in five business days. Most

CTC-Illinois central offices are not staffed, are in small rural areas and in some instances technicians will need to travel several miles to complete the central office lift and lay work necessary to provision an analog loop. To minimize the financial exposure associated with regularly missing the proposed 5 business day provisioning interval for loops, it is important that the threshold wholesale activity levels, the exemptions, the 90% provisioning standard and the reduced remedies discussed above be considered and implemented.

If you have questions regarding this letter, please do not hesitate to contact me.

Sincerely,

Kevin Saville
Associate General Counsel
Citizens Communications
2378 Wilshire Boulevard
Mound, MN 55364
(952) 491-5564 office
(952) 491-5515 fax